

ORDINANCE NO. 49-001

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PRIVATE PROPERTY, EASEMENTS AND RIGHT-OF-WAY THEREIN, FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR THE AQUIFER RECHARGE AND STORAGE PROJECT IN SEDGWICK COUNTY AND HARVEY COUNTY, KANSAS; DESIGNATING THE LANDS REQUIRED FOR SUCH PURPOSES AND DIRECTING THE CITY ATTORNEY TO FILE A PETITION IN THE DISTRICT COURT OF HARVEY COUNTY, KANSAS AND IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS, FOR ACQUISITION OF THE LANDS AND EASEMENTS THEREIN TAKEN AND PROVIDING FOR PAYMENT OF THE COST THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That it be and is hereby declared to be a public necessity to acquire by eminent domain proceedings for the purpose of public right-of-way for the development of infrastructure associated with the Aquifer Recharge and Storage project in Sedgwick County and Harvey County, Kansas, the lands and easements hereinafter described in Section 2.

SECTION 2. That the description of the lands and title therein necessary for the purpose of such action is as follows:

Clear and complete title for the uses and purposes herein set forth in and to the following-described tracts, to-wit:

The East 466.69 feet of the South 466.69 feet of the NE ¼, Section 35, T24S, R2W of the Sixth Principal Meridian, Harvey County, Kansas. Said tract contains 5.00 acres, more or less, including existing road Right-of-Way.

And permanent easements for the purposes herein described in and to the following-described tracts, to-wit:

A permanent easement for the purpose of constructing, operating, maintaining, inspecting and repairing a pipeline for the transmission of water and associated uses over a strip of land described as:

An 85.5 foot strip permanent waterline easement over the East 165 feet of the Southwest Quarter of the Northeast Quarter and a portion of the Southeast Quarter of the Northeast Quarter of Section 35, Township 24 South, Range 2 West of the 6th P.M., Harvey County, Kansas described as:

Beginning at the Southeast corner of the Southwest Quarter of the Northeast Quarter of Section 35, Township 24 South, Range 2 West of the 6th P.M., Harvey County, Kansas; thence bearing S89°29'01"W, along the South line of said Southwest Quarter of the Northeast Quarter, a distance of 104.19 feet; thence bearing N42°55'57"W, a distance of 90.32 feet to the West line of the East 165 feet of the Southwest Quarter of the Northeast Quarter of said Section 35; thence bearing N00°36'57"W, along said West line, a distance of 127.00 feet; thence bearing S42°55'57"E, a distance of 262.35 feet to the South line of the Southeast Quarter of the Northeast Quarter of Section 35, Township 24 South, Range 2 West; thence bearing S89°29'01"W, a distance of 11.62 feet to the Point of Beginning and

A permanent easement for the purpose of constructing, operating, maintaining, inspecting and repairing a pipeline for the transmission of water and associated uses over a strip of land described as:

An 85.5 foot strip permanent waterline easement over the Southwest Quarter of the Northeast Quarter of Section 35, Township 24 South, Range 2 West of the 6th P.M., Harvey County, Kansas described as:

Commencing at the Northwest corner of the Southwest Quarter of the Northeast Quarter of Section 35, Township 24 South, Range 2 West of the 6th P.M., Harvey County, Kansas; thence bearing N89°33'17"E, along the North line of said Southwest Quarter of the Northeast Quarter, a distance of 9.97 feet to the Point of Beginning of a permanent waterline easement; thence bearing S42°55'57"E, a distance of 1704.04 feet to the West line of the East 165 feet of the Southwest Quarter of the Northeast Quarter of said Section 35; thence bearing N00°36'57"W, along the West line of said East 165 feet, a distance of 127.00 feet; thence bearing N42°55'57"W, a distance of 1531.82 feet to the North line of said Southwest Quarter of the Northeast Quarter of said Section 35; thence bearing S89°33'17"W, along said North line, a distance of 115.94 feet to the Point of Beginning.

And temporary construction easements for the purpose of constructing, maintaining, and repairing utilities, over, along and under the following described real estate situated in Harvey County, Kansas, to wit:

A 75.0 foot strip temporary construction easement over the Southwest Quarter of the Northeast Quarter of Section 35, Township 24 South, Range 2 West of the 6th P.M., Harvey County, Kansas described as:

Beginning at the Northwest corner of the Southwest Quarter of the Northeast Quarter of Section 35, Township 24 South, Range 2 West of the 6th P.M., Harvey County, Kansas; thence bearing N89°33'17"E, along the North line of said Southwest Quarter of the Northeast Quarter, a distance of 9.97 feet; thence bearing S42°55'57"E, a distance of 1704.04 feet to the West line of the East 165 feet of the Southwest Quarter of the Northeast Quarter of said Section 35; thence bearing S00°36'57"E, along the West line of said East 165 feet, a distance of 66.82 feet to the Southwest corner of said East 165 feet of the Southwest Quarter of the Northeast Quarter; thence bearing S89°29'01"W, along said South line of said Southwest Quarter of the Northeast Quarter, a distance of 40.78 feet; thence bearing N42°55'57"W, a distance of 1657.99 feet to the West line of said Southwest Quarter of the Northeast Quarter of said Section 35; thence bearing N00°43'14"W, along said West line, a distance of 100.68 feet to the Point of Beginning and

A temporary construction easement over the East 165 feet of the Southwest Quarter of the Northeast Quarter of Section 35, Township 24 South, Range 2 West of the 6th P.M., Harvey County, Kansas described as:

Beginning at the Southwest corner of the East 165 feet of the Southwest Quarter of the Northeast Quarter of Section 35, Township 24 South, Rang 2 West of the 6th P.M., Harvey County, Kansas; thence bearing N00°36'57"W, along the West line of said East 165 feet; a distance of 66.68 feet; thence bearing S42°55'57"E, a distance of 90.32 feet

to the South line of said Southwest Quarter of the Northeast Quarter; thence bearing S89°29'01"W, a distance of 60.81 feet to the Point of Beginning.

SECTION 3. That the City Attorney is hereby authorized and directed to commence proceedings in eminent domain in the District Court of Sedgwick County, Kansas and the District Court of Harvey County, Kansas, for the appropriation of said lands and determination of the compensation to be awarded for the taking thereof.

SECTION 4. That the costs of said acquisition when ascertained shall be paid from General Obligation Bonds to be issued for the costs of such improvements; PROVIDED, however, should the City of Wichita acquire said property (and said City hereby reserves its right to abandon the condemnation as to any of all tracts) that General Funds are available for said purpose as provided by law.

SECTION 5. That the costs of said acquisition shall be charged to the City of Wichita.

SECTION 6. That this Ordinance shall take effect and be in force from and after its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 3rd day of May, 2011.

CITY OF WICHITA

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law